



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,448	02/11/2002	Frank L. Norman	102FXN01A	4559
7590	06/15/2004		EXAMINER	
Bradley N. Ruben			TOOMER, CEPHIA D	
463 First Street, Suite 5A				
Hoboken, NJ 07030			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 06/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/073,448	NORMAN, FRANK L.	
	Examiner	Art Unit	
	Cephia D. Toomer	1714	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 31 March 2004.  
2a)  This action is **FINAL**.                    2b)  This action is non-final.  
3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### **Disposition of Claims**

4)  Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-14 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date. \_\_\_\_ .  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 5)  Notice of Informal Patent Application (PTO-152)  
Paper No(s)/Mail Date \_\_\_\_ . 6)  Other: \_\_\_\_ .

**DETAILED ACTION**

This Office action is in response to the remarks filed March 31, 2004.

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zhan (CN 87108003) in view of (Gallacher (US 5,023,016) and El A'mma (6,211,213) for the reasons of record.

Applicant argues that Zhan discloses sulfonates and peroxides but does not teach that the peroxides are organic or that the sulfonates are alkylaromatic sulfonates.

In the Index Terms (IT), Zhan discloses organic peroxides, such as tert-butyl hydroperoxide, acetone diperoxide and isopropyl hydroperoxide. With respect to the sulfonates, Zhan specifically teaches calcium salts of sulfonic acid and generically discloses sulfonates. Since Zhan discloses these generic salts, it would be reasonable to expect that the generic disclosure includes lithium aromatic sulfonate. Furthermore, Gallacher teaches that such metal sulfonates as disclosed in Zhan include lithium and calcium alkyl, dialkyl or polyalkylaromatic sulfonates (see Gallacher, col. 4, lines 49-65).

Applicant argues that Gallacher's composition is not for improving the combustion of petroleum compositions, as shown by the printout from King Industries.

Applicant's claims are not directed to a method for improving the combustion of petroleum compositions but a fuel additive composition and a method of operating a

Art Unit: 1714

gasoline powered engine. It should be noted that intended use is given no patentable weight in claims that are directed to the composition *per se*. Gallacher teaches a rust and corrosion inhibitor and the skilled artisan recognizes that these additives are conventional fuel additives. Furthermore, Gallacher teaches that these compounds may be diluted with kerosene, petroleum solvents and the like, and that the composition of his invention can be employed as rust preventives in any application requiring rust and corrosion inhibitor (see col. 6, lines 32-51).

Applicant argues that El A'mma is directed to aqueous solutions only and may not be combined with Zhan.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, El A'mma is cited for teaching that the peroxides disclosed in Zhan are equivalent oxidants to those of the present invention. El A'mma was not relied upon for teaching fuel compositions.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

Art Unit: 1714

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Cephia D. Toomer  
Primary Examiner  
Art Unit 1714

10073448\061004